

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Werner (TI-27316)

Conf. No. 8758

Serial No. 09/731,415

Group Art Unit: 2623

Filed: 6 December 2000

Examiner: Ustaris

For: Video Presentation Scheduling and Control Method and System

SUBSTITUTE APPELLANT'S BRIEF

Commissioner for Patents

Washington, DC 20231

Dear Sir:

Appellant respectfully presents his brief in support of his appeal of the final rejection of claims in this case. The Notice of Appeal was filed on December 11, 2006, as indicated on the date of the automated receipt from the Patent and Trademark Office. This substitute brief is presented in response to the Notice of Non-Compliant Appeal Brief mailed June 20, 2007.

Real Party in Interest

The real party in interest in this application is Texas Instruments Incorporated.

Related Appeals and Interferences

The undersigned is aware of no related applications that are currently on appeal or in an interference that would be directly affected by, or that themselves directly affect or have a bearing on, this appeal.

Status of the Claims

Claims 1 through 4, 6 through 13, and 15 through 19 were finally rejected in the Office Action of August 9, 2006, and are the subject of the present appeal. Claims 5, 14, and 20 have been canceled from this application.¹

Status of Amendments

No amendment was presented after the final rejection. A Request for Reconsideration was filed on December 11, 2006, but was not found to be persuasive, as indicated in the Advisory Action of January 8, 2007.

Summary of the Claimed Subject Matter

Independent claim 1 is directed to a system for scheduling and controlling the presentation of data, for example the scheduling of feature films and promotional content at a multiple-screen theater or other facility.² The system includes a data library (40), a plurality of data presentation units (30) such as projector systems, and a server (60) at a location remote from the locations of the data presentation units.³ The server (60) operates to perform various functions in the scheduling and control of the showing of the feature and promotional content. For example, this operability of the server (60) can be realized by way of various process modules that reside on the server (60).⁴ The functions carried out by server (60) include the scheduling and routing of features and selected promotional content to projector systems at particular locations at particular times, considering restrictions corresponding to attributes of the projector systems, such as aspect ratio or sound system features.⁵ In addition, the server (60) also controls at least one facility element, such as heating and air conditioning settings, opening

¹ This statement regarding the canceled status of claims 5, 14, and 20 is added in response to the Notice of Non-Compliant Appeal Brief. No other change to the original brief is made in this Substitute Appellant's Brief.

² Specification of Appl. S.N. 09/731,415, as published as U.S. Patent Application Publication No. US 2002/0069107 A1, paragraphs [0001] and [0013].

³ Specification, *supra*, paragraphs [0013] through [0017]; Figure 1.

⁴ Specification, *supra*, paragraphs [0031] through [0040]; Figure 2.

⁵ Specification, *supra*, paragraphs [0043], [0046]; Figure 3.

and closing of curtains, or dimming house lights, at the selected location in conjunction with the display of the selected content.⁶

Independent claim 8 is directed to a scheduler and controller for the presentation of video data, including features and promotional data, over multiple remote locations. The scheduler and controller includes a server (60) and a scheduling and control process (140; 150) resident on that server and that is operable to create scheduling data according to which the features and promotional data are scheduled.⁷ The functions carried out by the scheduling and control process (140; 150) include the selection (304) of the features to be presented at various times, and the selecting (314) of a remote location at which to present that feature, based on attributes of a data presentation unit (30) at that location and restrictions on the feature that are indicative of those attributes, and the control of a facility element, such as an environmental setting, opening and closing of curtains, or control of house lights, at that location at the appropriate time.⁸

Independent claim 15 is directed to a method for scheduling and controlling the presentation of video data over multiple remote locations, such as a theater or other commercial location. The method includes selecting (304) a feature to be presented and determining (306) restrictions about the attributes of the data presentation unit (30) to be considered in connection with the showing of that feature.⁹ The method also selects (308) promotional data to be displayed with the feature, and then schedules (314) the feature and promotional data at a particular location, based on the comparison of the attributes of the data presentation unit (30) at that location with the restrictions.¹⁰ The method continues with the controlling (318) of facility elements, such as temperature, lighting, or curtain control at the selected location in conjunction with the feature and promotional data.¹¹

⁶ Specification, *supra*, paragraph [0029], [0040], and [0049].

⁷ Specification, *supra*, paragraphs [0031] through [0040]; Figure 2.

⁸ Specification, *supra*, paragraphs [0035], [0036], [0039], [0040] through [0050]; Figures 2 and 3.

⁹ Specification, *supra*, paragraphs [0041] through [0043]; Figure 3.

¹⁰ Specification, *supra*, paragraph [0048]; Figure 3.

¹¹ Specification, *supra*, paragraph [0049]; Figure 3.

The claimed invention, in both its method and system form, provides important advantages over conventional theater and other video presentation systems. These advantages include the ability to schedule features and trailers at appropriate times, in the appropriate theater, in a manner that can be quickly and efficiently modified,¹² without involving substantial and time-consuming manual labor.¹³ In addition, centralized control and monitoring of the environmental and other facility features of the theater or video location is accomplished in connection with the showing of the video content itself, in an automated manner.¹⁴

Grounds of Rejection to Be Reviewed On Appeal

The rejection of claim 1 and its dependent claims

Claims 1 through 4, 6, and 7 were finally rejected under §103 as unpatentable over the Rabowsky reference¹⁵ in view of the Merces et al. reference¹⁶.

The Examiner found, relative to claim 1, that the Rabowsky reference teaches all of the elements of claim 1, except for the function of controlling at least one facility element within the selected location at the selected time. In making this finding, the Examiner asserted that the teachings of the Rabowsky reference regarding ensuring that the projector system has proper authorization to project the cinema content corresponds to the requirement of claim 1 that the location be selected based on a comparison of the restrictions applicable to the selected feature and the attributes of the data presentation unit at the selected location.¹⁷ The Examiner also asserted that the Merces et al. reference discloses a cinema controller that controls auditorium lights and curtains in the presentation room.¹⁸ The Examiner further found that it would have been obvious to the skilled artisan to modify the system of Rabowsky in the manner taught by Merces et al. in order to reduce the amount of operator interaction, and thus provide more efficient theater operation.¹⁹

¹² Specification, *supra*, paragraph [0006].

¹³ Specification, *supra*, paragraphs [0002], [0003], [0007].

¹⁴ Specification, *supra*, paragraph [0007].

¹⁵ U.S. Patent No. 6,141,530, issued October 31, 2000 to Rabowsky.

¹⁶ U.S. Patent No. 6,384,893, issued May 7, 2002 to Merces et al.

¹⁷ Office Action of August 9, 2006, page 3, *citing* Rabowsky, *supra*, at column 12, lines 8 through 28.

¹⁸ Office Action, *supra*, page 4, *citing* Merces et al., *supra*, at column 5, lines 20 through 45.

¹⁹ Office Action, *supra*, page 4.

In response to Appellant's arguments in the Request for Reconsideration, the Examiner maintained this finding and the final rejection. Specifically, the Examiner asserted that the Rabowsky reference teaches that its projector screen rooms have attributes, such as size and screen aspect ratio, beyond the attribute of its authorization, and that its system selects a location based on a comparison of the restrictions on the feature and those attributes.²⁰

Specific limitations of the dependent claims were found by the Examiner to be present in the references, or obvious therefrom.

The rejection of claim 8 and its dependent claims

Claims 8 through 13 were finally rejected under §103 as unpatentable over the Rabowsky reference in view of the Merces et al. reference, on similar grounds as described above relative to claim 1, and on the additional finding that the particular functions taught by the references are inherently repeated for multiple features and trailers, and that the resulting scheduling data are inherently stored within the storage device of the references.²¹

Specific limitations of the dependent claims were found by the Examiner to be present in the references, or obvious therefrom.

The rejection of claim 15 and its dependent claims

Claims 15 through 19 were finally rejected under §103 as unpatentable over the Rabowsky reference in view of the Merces et al. reference. The rejection of claim 15 was based on similar grounds as described above relative to claims 1 and 8.²²

Specific limitations of the dependent claims were found by the Examiner to be present in the references, or obvious therefrom.

Argument

It is axiomatic, in the patent law, that a *prima facie* obviousness determination of patent claims requires teachings from the prior art itself to appear to have suggested the claimed subject

²⁰ Advisory Action of January 8, 2007, page 2, *citing* Rabowsky, *supra*, column 11, lines 54 through 60 and column 12, lines 8 through 28.

²¹ Office Action, *supra*, page 6.

²² Office Action, *supra*, page 7.

matter to a person of ordinary skill in the art.²³ If the Examiner fails to establish such a *prima facie* case, the obviousness rejection is improper and should be overturned on appeal.²⁴ In such a determination based on the combination of prior art references, there must be some suggestion or motivation to combine and modify the prior art teachings so as to reach the claims, beyond a mere conclusory statement, to avoid a conclusion that the combination or modification is based on the improper use of the inventor's own teachings in hindsight.²⁵

Claim 1 and its dependent claims

Appellant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness relative to claim 1, because the combined teachings of the applied references fall short of the requirements of independent claim 1. Specifically, Appellant submits that, contrary to the basis of the final rejection, the Rabowsky reference fails to disclose a server that is operable to select one of the plurality of locations at which to present the selected feature based on a comparison of the restrictions applicable to the selected feature and the attributes of the data presentation unit at the selected location.

Appellant therefore submits that the final rejection of claim 1 and its dependent claims is in error and should be reversed.

Claim 1 requires, *inter alia*, a plurality of data presentation units coupled to the data library, each disposed at a corresponding one of a plurality of locations, and each operable to present at least one of the plurality of features according to attributes of the data presentation unit related to such presentation. Accordingly, the “attributes” that the data presentation units present are related to the presentation of data by the corresponding data presentation unit. Examples of these attributes include the type of video display, the type of audio output, and decompression functionality.²⁶ The system of claim 1 also requires a server that is operable to determine

²³ *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993).

²⁴ *Rijckaert*, *supra*.

²⁵ *KSR International Co. v. Teleflex Inc et al.*, No. 04-1350, 550 U.S. ____; slip op. at 14 (2007); *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ3d 1614 (Fed. Cir. 1999) (“Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight.”).

²⁶ Specification, *supra*, paragraph [0048].

restrictions applicable to the selected feature, the restrictions comprising restrictions indicative of data presentation unit attributes useful for the presentation of the selected feature.

The Examiner asserts that the Rabowsky reference teaches certain parameters that correspond to the attributes presented by the data presentation units of the claims.²⁷ The passage of the Rabowsky reference cited by the Examiner as teaching these attributes reads:

In theaters, the screen is the display for the cinema. The size, aspect ratio, and the reflectivity of the screen must conform with the projector output characteristics to provide an acceptable theater presentation. Screen specification standards are established to provide assurance of reasonable quality control.²⁸

In order for these attributes of the secure projector systems to correspond to the attributes of claim 1, the restrictions determined by the server of the Rabowsky reference must include restrictions indicative of these attributes. In other words, these disclosed “attributes” of the secure projector systems of the reference must be reflected in the restrictions applicable to a given feature as determined by the server of the reference, and must be at least part of the basis on which the server selects one of a plurality of locations to present that feature. However, the alleged “attributes” of the Rabowsky reference are not disclosed as communicated or presented by its secure projector systems in any way. Rather, this cited passage merely states that the projector and screen must conform to one another, and that standards for the specifications of the screen have been established to accomplish that. Nor does the reference disclose that these “attributes” (*e.g.*, “size, aspect ratio, and the reflectivity of the screen”) are presented by the projector system to any other element. Rather, these “attributes” appear to be given parameters for the particular installation – indeed, these “attributes” are disclosed as following a standard.

The absence of any teaching in the Rabowsky reference that the asserted “attributes” are used to determine restrictions on the feature is also evident from the manner in which the reference teaches selection of a location at which to present a feature. The Examiner asserts that the claim limitation regarding the determining of restrictions by the server derives from the

²⁷ Office Action, *supra*, pages 2 and 3, *citing* Rabowsky, *supra*, column 11, lines 54 through 60; Advisory Action, *supra*.

²⁸ Rabowsky, *supra*, column 11, lines 54 through 60.

Rabowsky statement that “the cinema file requires that the projector system has proper authorization in order to present the cinema file”, citing this passage:²⁹

Within the bit stream provided by the Headend to a specific theater is a playback schedule. This schedule defines the authorized playback times for each cinema file and for each screen in the theater. The automation/scheduling system schedules these playbacks, and provides the necessary machine control to automatically play the cinemas at the scheduled times. It includes the scheduling and playout of all trailers.

A theater operator interface provides the operator with the ability to modify the schedule, such as changing play times, and which screens are showing which cinemas. Such changes require notification of the headend. Changes which do not violate contractual terms are automatic, requiring only a change in the distribution records. Changes which modify the terms of an existing contract between Exhibitor, Distributor, and Service Provider are verified and authorized by the DMS once accepted by the parties to the contract. This interface also may provide a facility for allowing theater operators to insert locally-generated materials such as advertisements for local businesses.³⁰

Accordingly, the “restrictions” that are used by the Rabowsky system to allegedly select a projector location include a predetermined playback schedule in the bitstream, but have nothing to do with the attributes of a particular projector system. Indeed, the reference discloses that these restrictions are primarily contractual in nature. As such, not only are these restrictions not be determined by the server, as required by the claim, but in fact the schedule may be changed only after additional contract negotiation!

In summary, to the extent that the Rabowsky reference teaches attributes of the data presentation unit related to presentation (*i.e.*, size, aspect ratio, and the reflectivity of the screen), these attributes have no bearing whatsoever to the selection of which one of a plurality of locations for the presentation of the selected feature. Rather, the Rabowsky reference teaches the use of only contractual attributes, having nothing to do with attributes of the projector system and having no relationship to presentation of the feature, in its “selecting” of a projector location.

Appellant therefore respectfully submits that the Rabowsky reference fails to disclose data presentation units that are operable to present attributes of the data presentation unit related

²⁹ Office Action, *supra*, page 3.

³⁰ Rabowsky, *supra*, column 12, lines 8 through 28.

to presentation, as required by claim 1. Appellant also respectfully submits that the reference also fails to disclose a server that is operable to determine restrictions that are applicable to a feature and that comprise restrictions indicative of data presentation unit attributes, because such data presentation unit attributes are not taught by the reference. Because the final rejection of claim 1 is based on the erroneous finding by the Examiner that these elements are taught by the Rabowsky reference, Appellant submits that the final rejection is in error.

Appellant further submits that claim 1 and its dependent claims are in fact patentable over the applied references.

The Mercs et al. reference lacks teachings regarding the selecting of a location at which to present the feature based on this comparison of restrictions to attributes. The absence of such teachings is evident because, according to the Mercs et al. reference, the media used at each projection room of its cinema are film reels.³¹ Accordingly, one can only presume that the scheduling of feature presentations according to Mercs et al. is performed manually, and implemented by physically transporting film reels to the various projectors. Because the Mercs et al. reference also fails to disclose the limitation of claim 1 that is also missing from the Rabowsky reference, Appellant submits that the combined teachings of the applied references fall short of the requirements of claim 1 and its dependent claims.

Nor is there suggestion from the prior art, or from the common sense or ordinary creativity of the skilled artisan,³² to modify these teachings in such a manner as to reach claim 1. Neither of the applied references mentions or suggests different attributes of presentation units at different locations within a single system, nor does either reference suggest that the data corresponding to the various features may have different restrictions regarding the presentation of those features on presentation equipment. In other words, neither reference even mentions the problem addressed by the invention of claim 1, much less suggest modifying the teachings of these references to reach the claim by providing a server that operates to select presentation locations by matching feature restrictions and presentation unit attributes, as performed by the system of claim 1 and its dependent claims. Accordingly, Appellant submits that it requires

³¹ Mercs et al., *supra*, column 5, lines 12 through 14.

³² *KSR, supra*.

more than common sense or ordinary creativity to modify the combined teachings of the Rabowsky and Mercks et al. references to come up with the invention of claim 1.³³ And for this reason, Appellant submits that claim 1 and its dependent claims are in fact patentably distinct over the applied references.

For these reasons, Appellants submit that the final rejection under §103 of claim 1 and its dependent claims 2 through 4, 6, and 7 is in error, and should be reversed.

Claim 8 and its dependent claims

Appellant also respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness relative to claim 8 and its dependent claims 9 through 13, because the combined teachings of the applied references fall short of the requirements of the claim. Specifically, Appellant submits that the final rejection is in error because, contrary to the findings of the Examiner, the Rabowsky reference fails to disclose a scheduling and control process that is operable to create scheduling data by a process that includes selecting a remote location having a data presentation unit in which to present the selected feature based on a comparison of attributes of the data presentation unit useful for the presentation of data and restrictions applicable to the selected feature, as claimed.

Appellant therefore submits that the final rejection of claim 8 and its dependent claims is in error and should be reversed.

Claim 8 is directed to a data presentation scheduler and controller comprised of a server and a scheduling and control process resident on that server. The scheduling and control process of the claim is required to be operable to perform a sequence of operations, repeated for a desired number of features and a desired plurality of times. This sequence of operations includes, *inter alia*, the determining of restrictions applicable to a selected feature and indicative of data presentation attributes useful for the presentation of that feature, and the selecting of a location at which to present that feature based on a comparison of attributes of the data presentation unit at that location, and the restrictions applicable to the feature. As in the case of claim 1, the “attributes” that are used in this comparison, and of which the restrictions of the feature are

³³ *KSR, supra.*

indicative, must be related to the presentation of that feature by a data presentation unit; examples of such attributes include the type of video display, the type of audio output, and decompression functionality.³⁴

The Examiner asserts that the Rabowsky reference teaches certain parameters that correspond to these attributes.³⁵ Appellant submits, however, that to the extent that these parameters relate to the presentation of a feature, those parameters are not used in selecting a location at which to display the feature, according to the teachings of the Rabowsky reference. In this regard, the Examiner asserted that these Rabowsky parameters include the size, aspect ratio, and the reflectivity of the screen.³⁶ However, the Rabowsky reference does not teach using these parameters to select a location at which to display video. Rather, as asserted by the Examiner,³⁷ the Rabowsky reference makes this selection only by ensuring that the projector system has proper authorization in order to present the cinema file. Accordingly, screen size, aspect ratio, or screen reflectivity are not a factor in the selection of whether a given feature is to be displayed at a given projection location; only the authorization status of that projector system is a factor in that decision, according to the reference. Indeed, the “restrictions” that are disclosed by the Rabowsky reference as selecting a projector location have nothing to do with the attributes of a particular projector system, but are primarily contractual restrictions.³⁸

Appellant therefore respectfully submits that the Rabowsky reference fails to disclose a scheduling and control process, resident on a server, that is operable to determine restrictions for a feature that are indicative of data presentation unit attributes, and that is operable to select a location based on a comparison of attributes of a data presentation unit with these restrictions. Because the final rejection of claim 8 is based on an erroneous finding by the Examiner in this regard, Appellant submits that its final rejection is in error.

Appellant further submits that claim 8 and its dependent claims are in fact patentable over the applied references.

³⁴ Specification, *supra*, paragraph [0048].

³⁵ Office Action, *supra*, pages 2 and 3, *citing* Rabowsky, *supra*, column 11, lines 54 through 60; Advisory Action, *supra*.

³⁶ Rabowsky, *supra*, column 11, lines 54 through 60.

³⁷ Office Action, *supra*, page 3.

³⁸ Rabowsky, *supra*, column 12, lines 17 through 28.

As noted above, the Rabowsky reference fails to disclose the operations of determining restrictions and selecting a location, as is required of the scheduling and control process resident on the server of claim 8. The Merces et al. reference also lacks teachings in this regard. According to the Merces et al. reference, the media used at each projection room of its cinema are film reels.³⁹ To the extent that there can be any scheduling of feature presentations according to Merces et al. reference, this scheduling is therefore necessarily a manual process, and requires physically transporting film reels to the selected projector. No other scheduling approach is mentioned by this reference. Therefore, because the Merces et al. reference also fails to disclose the limitations of claim 8 that are also not disclosed by the Rabowsky reference, Appellant submits that the combined teachings of the applied references fall short of the requirements of claim 8 and its dependent claims.

Appellant further submits that there is no suggestion from the prior art, nor from the common sense or ordinary creativity of the skilled artisan,⁴⁰ to modify the teachings of the applied references sufficiently to reach claim 8. As discussed above relative to claim 1, neither of the Rabowsky and Merces et al. references mentions or suggests that different presentation units at different locations within a single system may have different attributes related to the presentation of a feature, and neither mentions or suggests that various features may have different restrictions regarding the presentation of those features on presentation equipment. Since there is no mention of the possibility of these different attributes and restrictions, there can be no suggestion from these references to modify the combination of their teachings to reach claim 8, for example by providing a scheduling and control process that operates to select presentation locations by matching feature restrictions and presentation unit attributes. Appellant therefore submits that more than common sense or ordinary creativity would be required, on the part of a person of ordinary skill in the art at the time of this invention, to modify the combined teachings of the Rabowsky and Merces et al. references in order to arrive at the invention of claim

³⁹ Merces et al., *supra*, column 5, lines 12 through 14.

⁴⁰ *KSR, supra*.

8.⁴¹ Appellant therefore submits that claim 8 and its dependent claims are in fact patentably distinct over the applied references.

For these reasons, Appellants submit that the final rejection under §103 of claim 8 and its dependent claims 9 through 13 is in error, and should be reversed.

Claim 15 and its dependent claims

Appellant also respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness relative to claim 15 and its dependent claims 16 through 19, because the combined teachings of the applied references fall short of the requirements of the claim. Specifically, Appellant submits that the final rejection is in error because it is based on the erroneous findings that the Rabowsky reference discloses a method for scheduling and controlling the presentation of data including the determining of restrictions applicable to a selected feature and that are indicative of data presentation attributes useful for the presentation of that feature, and including the selecting of a location in which to present that feature based on a comparison of attributes of the data presentation unit useful for the presentation of data and those restrictions determined for the selected feature, as claimed.

Appellant therefore submits that the final rejection of claim 15 and its dependent claims is in error and should be reversed.

In the method of claim 15, as discussed above relative to claims 1 and 8, the “attributes” that are used in the comparing step, and of which restrictions of the selected feature are indicative, are required to be related to the presentation of that feature by a data presentation unit. The specification provides examples of such attributes, such as the type of video display, the type of audio output, and decompression functionality.⁴²

The Examiner asserts that the Rabowsky reference teaches certain parameters that correspond to these attributes.⁴³ To the extent that these parameters relate to the presentation of a feature, however, the reference does not disclose the use of those parameters in selecting a

⁴¹ *KSR, supra.*

⁴² Specification, *supra*, paragraph [0048].

⁴³ Office Action, *supra*, pages 2 and 3, *citing* Rabowsky, *supra*, column 11, lines 54 through 60; Advisory Action, *supra*.

location at which to display the feature. Instead, according to the Rabowsky reference and as asserted in the final rejection, the only “parameter” involved in the selection of a projector system for display is whether the projector system has the proper authorization to show the feature:⁴⁴ Accordingly, none of the so-called parameters of screen size, aspect ratio, and screen reflectivity is involved in the determination of whether a given feature is to be displayed at a given projection location, according to the reference. And considering that these projection parameters are not used, it stands to reason that the “restrictions” disclosed by the Rabowsky reference as involved in the selecting of a projector do not involve the “parameters” of screen size, aspect ratio, and screen reflectivity, but instead are primarily contractual restrictions.

Appellant therefore respectfully submits that the Rabowsky reference fails to disclose a method for scheduling and controlling the presentation of data, including the steps of determining restrictions for a feature that are indicative of data presentation unit attributes, and of selecting a location at which to present the feature, based on a comparison of attributes of a data presentation unit with these restrictions of the feature. Because the final rejection of claim 15 is based on an erroneous finding by the Examiner in this regard, Appellant submits that its final rejection is in error.

Appellant further submits that claim 15 and its dependent claims are in fact patentable over the applied references.

The Mercs et al. reference also fails to disclose the determining and selecting steps that are not present in the Rabowsky reference, as discussed above. Instead, according to the Mercs et al. reference, the media used at each projection room of its cinema are film reels,⁴⁵ which necessitates that any scheduling of feature presentations must be a manual process, requiring the physical transporting of film reels to the selected projector. The reference mentions no other scheduling approach, much less that recited by claim 15. Therefore, because both of the applied references fail to disclose certain steps of the method of claim 15, Appellant submits that the combined teachings of the applied references fall short of the requirements of claim 15 and its dependent claims.

⁴⁴ Office Action, *supra*, page 3.

⁴⁵ Mercs et al., *supra*, column 5, lines 12 through 14.

Appellant further submits that there is no suggestion from the prior art, nor from the common sense or ordinary creativity of the skilled artisan,⁴⁶ to modify the teachings of the applied references sufficiently to reach claim 15. As discussed above relative to claims 1 and 8, the absence of any mention or suggestion, in the Rabowsky and Mercks et al. references, of different presentation units at different locations within a single system having different attributes related to the presentation of a feature, and the absence of any mention or suggestion by these references that various features may have different restrictions regarding the presentation of those features on presentation equipment, indicates that there is no suggestion from these references to modify the combination of their teachings to reach claim 15. Appellant therefore submits that more than common sense or ordinary creativity would be required, on the part of a person of ordinary skill in the art at the time of this invention, to modify the combined teachings of the Rabowsky and Mercks et al. references in order to arrive at the invention of claim 15.⁴⁷ Appellant therefore submits that claim 15 and its dependent claims are in fact patentably distinct over the applied references.

For these reasons, Appellants submit that the final rejection under §103 of claim 15 and its dependent claims 16 through 19 is in error, and should be reversed.

⁴⁶ *KSR, supra.*

⁴⁷ *KSR, supra.*

In conclusion

For the foregoing reasons, therefore, Appellants respectfully submit that the final rejection under §103 of claims 1 through 4, 6 through 13, and 15 through 19 is in error. Reversal of the final rejection of the claims in this case is therefore respectfully requested.

Respectfully submitted,
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Claims appendix:

1. A system for scheduling and controlling presentation of data, comprising:
 - a data library operable to store a plurality of features and promotional data;
 - a plurality of data presentation units coupled to the data library, each disposed at a corresponding one of a plurality of locations, each data presentation unit operable to present at least one of the plurality of features according to attributes of the data presentation unit related to such presentation; and
 - a server coupled to the data library, located remotely from each of the plurality of locations, and operable to
 - select at least one of a desired number of features to present at a selected one of a desired plurality of times;
 - determine restrictions applicable to the selected feature, the restrictions comprising restrictions indicative of data presentation unit attributes useful for the presentation of the selected feature;
 - select applicable promotional data to be presented with the selected feature;
 - select one of the plurality of locations at which to present the selected feature based on a comparison of the restrictions applicable to the selected feature and the attributes of the data presentation unit at the selected location;
 - automatically provide the selected feature and promotional data from the data library to at least one of the plurality of data presentation units at the selected location at approximately the selected one of the desired plurality of times; and
 - control at least one facility element within the selected location at the selected one of the desired plurality of times.
2. The system of claim 1, wherein the server is further operable to create new scheduling data by rotating the selection of promotional data to be presented with the selected feature.

3. The system of claim 1, wherein the at least one of the data presentation units comprises an electronic projector.

4. The system of claim 1, wherein the server is operable to receive feature and promotional data from a remote source for transfer to the data library.

6. The system of claim 1, wherein promotional data are selected from one of the group consisting of trailers, advertisements, and interactive data.

7. The system of claim 1, wherein the feature is transmitted to the at least one data presentation unit using a wireless communication link.

8. A data presentation scheduler and controller, comprising:

- a server coupled to a storage medium; and
- a scheduling and control process resident on the server and operable to create scheduling data by repeating for a desired number of features and a desired plurality of times:
 - selecting at least one of the desired number of features to present at a selected one of the desired plurality of times;
 - determining restrictions applicable to the selected feature, the restrictions comprising restrictions indicative of data presentation unit attributes useful for the presentation of the selected feature;
 - selecting applicable promotional data to be presented with the selected feature;
 - selecting a location remote from the server having a data presentation unit in which to present the selected feature based on a comparison of attributes of the data presentation unit useful for the presentation of data and the restrictions applicable to the selected feature ;
 - storing the scheduling data on the storage medium; and
 - controlling at least one facility element within the selected location at the selected one of the desired plurality of times.

9. The scheduler of claim 8, wherein the server is further operable to automatically initiate transfer the selected feature and promotional data to at least one of the data presentation units in the selected location at approximately the selected one of the desired plurality of times.

10. The scheduler of claim 8, wherein the process is further operable to select the location in response to one of the group consisting of facility data, maintenance data, and accounting data.

11. The scheduler of claim 8, wherein the process is further operable to deactivate the feature to present in response to accounting data.

12. The scheduler of claim 8, wherein promotional data are selected from one of the group consisting of trailers, advertisements, and interactive data.

13. The scheduler of claim 8, wherein the process is further operable to create new scheduling data by rotating the selection of promotional data to be presented with the selected feature.

15. A method for scheduling and controlling presentation of data, comprising:

- selecting one of a plurality of features to present at one of a plurality of selected times using a computer;
- determining restrictions applicable to the selected feature using the computer, the restrictions comprising restrictions indicative of data presentation unit attributes useful for the presentation of the selected feature;
- selecting applicable promotional data to be presented with the selected feature using the computer;
- using the computer, selecting a location, remote from the computer, with a data presentation unit in which to present the selected feature based on a comparison of attributes of the data presentation unit useful for the presentation of data and the restrictions applicable to the selected feature;
- controlling at least one facility element within the selected location at the selected one of the desired plurality of times, using the computer; and

repeating the selecting, restrictions determining, promotional data selecting, and location selecting steps for a desired number of the remaining plurality of features.

16. The method of claim 15, further comprising automatically transferring the selected feature and promotional data to at least one of the data presentation units in the selected location at approximately the selected one of the desired plurality of times.

17. The method of claim 15, further comprising receiving feature and promotional data from a remote source.

18. The method of claim 15, wherein the location is selected in response to one of the group consisting of facility data, maintenance data, and accounting data.

19. The method of claim 15, further comprising deactivating the selected feature in response to ticket sales data.

Evidence appendix:

None.

Related proceedings appendix:

None.